

**American Bar Association  
Standing Committee on Client Protection**

**2009 Survey of Unlicensed Practice of Law Committees**

**INTRODUCTION**

The ABA Standing Committee on Client Protection sponsored a survey on unlicensed practice of law during 2009. This is the third survey the Committee has undertaken on the unauthorized or unlicensed practice of law since it published the *1994 Survey and Related Materials on the Unauthorized Practice of Law/Nonlawyer Practice*. Previous surveys were completed in 1999 and 2004. The results of the survey are provided to courts, bar associations, lawyers, and members of the public and news media nationwide. Questionnaires were sent to all jurisdictions in the United States. The Committee received responses from thirty-nine jurisdictions. The following jurisdictions have not responded: Georgia, Indiana, Kansas, Massachusetts, Michigan, Minnesota, Nevada, New Hampshire, New Mexico, Rhode Island, South Carolina and Vermont.

**RESULTS OF THE 2009 UNLICENSED PRACTICE OF LAW SURVEY**

**Current Enforcement Activity**

Several jurisdictions have more than one entity responsible for UPL enforcement. Twenty-nine jurisdictions actively enforce UPL regulations, although some jurisdictions indicate that insufficient funding makes enforcement difficult. Six jurisdictions stated that enforcement is inactive or non-existent.

The majority of responding jurisdictions have definitions for both the “practice of law” and the “unauthorized practice of law”. “Practice of law” definitions are established by court rule in six jurisdictions, by statute in four, through case law in seven, and through advisory opinions in one jurisdiction. Some jurisdictions have definitions in more than one resource, such as Louisiana, which has practice definitions in a court rule, case law, and in statute. “Unauthorized practice of law” definitions usually are found either in statutes (seven jurisdictions), through a court rule (four jurisdictions) or some combination of statute, rule, case law and advisory opinion.

Enforcement authority against UPL is established by court rule in nine jurisdictions, by statute in thirteen and by a statute and court rule in five jurisdictions. In most jurisdictions there are two or more authorities authorized to enforce UPL regulations, including states attorneys general, state bar committees/counsel, state supreme court committees/commissions, and local and county attorneys. UPL enforcement in the majority of the responding jurisdictions is funded through bar association dues or lawyer assessments or the state supreme court. Most jurisdictions either do not have a specific annual expenditure for UPL enforcement or were unaware of the exact amount. The Florida Bar continues to lead the country in funding UPL enforcement, spending

approximately \$1.6 million annually. Other jurisdictions providing a significant budget for enforcement are Ohio, Tennessee and Texas.

The penalties/sanctions for UPL violations that are available to enforcement authorities include (by number of responding jurisdictions): civil injunctions (31), criminal fines (27), prison sentence (23), civil contempt (23), restitution (17), civil fines 13), criminal contempt (1) and misdemeanor jail (1). Most jurisdictions have several remedies.

### **Authorized Nonlawyer Practice**

Nineteen jurisdictions authorize nonlawyers to perform some legal services in limited areas. Eleven permit legal assistants, legal technicians or paralegals to perform some legal services under the supervision of a lawyer; four jurisdictions permit nonlawyers to draft legal documents, thirteen jurisdictions allow real estate agents/brokers to draft documents for property transactions or attends real estate closings; at least twenty jurisdictions permit nonlawyers to attend (and in some states *participate* in) administrative proceedings; and thirteen allow participation in alternative dispute resolution proceedings. However, of the jurisdictions that permit nonlawyer practice, eight do not regulate or license the nonlawyers.

### **Disbarred/Suspended Lawyers**

The survey also asked questions regarding the law-related activities of disbarred lawyers. Twenty-two responding jurisdictions permit disbarred lawyers to engage in law-related activities while disbarred. Usually the disbarred lawyer's conduct is regulated by court rules or case law that defines the supervision necessary for the disbarred lawyer working for a lawyer.

### **The Future: What's on the Horizon?**

Twelve jurisdictions responded that they expect changes in UPL in the coming year. Those jurisdictions contemplate adopting additional rules, participating in undercover "sting" operations to investigate complaints, more active enforcement, an increased budget for enforcement, changes in the procedures for enforcement, adoption of specific rules to define non-lawyer practice areas (WA) and increasing penalties. Wisconsin responded that it is in the process of adopting a definition of the practice of law.

If you have any questions regarding the 2009 Survey of UPL Committees, please contact Selina Thomas at [thomass@staff.abanet.org](mailto:thomass@staff.abanet.org) or 312/ 988-6721.

Janet Green Marbley, Chair  
Standing Committee on Client Protection  
March 2009

## 2009 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART I

STATE	Does your jurisdiction have a definition of practice law?  Cite/URL:	Source of Definition	Does your jurisdiction have a definition of the <u>unauthorized</u> practice of law?  Cite/URL:	Source of Definition	<u>Enforcement Against UPL</u>  What is the source of Enforcement Authority?	What Regulatory entity is authorized to enforce the UPL Regulations?	Who pays for UPL Enforcement?	What is the Annual Budget for UPL Enforcement?
<b>AL</b>	Yes, Section 34.4.6, Code of Alabama	Statute	Yes, Section 34-3-1, Code of Alabama	Statute	Statute	State Bar Counsel, Attorney General, County Prosecutor	Bar Counsel or Local or State Prosecutor	0
<b>AK</b>	Yes, Alaska Bar Rule 2, Section 2(c)	Rule; Case Law: Other: Christiansen v. Melinda, 857 P. 2d 345 ( Alaska 1993)	Yes, Bar Rule 15(6), Bar Rule 63	Rule	Statute (see Alaska Statutes 08.08.230)	State Prosecutor (see Alaska Statutes 08.08.230)	State of Alaska if complaints are prosecuted	Unknown
<b>AZ</b>	Yes; Rules of the Supreme Court of Arizona, Rule 31	Rule; Case Law	Yes; Rules of the Supreme Court of Arizona, Rule 31	Rule	Rule	State Bar Counsel	UPL enforcement occurs through the regulatory process which is funded by lawyer/member dues.	UPL enforcement is not budgeted separately. It is part of the Budget for Lawyer Regulation.
<b>AR</b>	Yes; Ark. Code Ann.§§ 4-109-101	Statute; Case Law	No; Ark. Code Ann. § 16-22-501	Statute; Case Law; Other - We have no definition of the “unauthorized practice of law”, but what we do have are prohibited activities for non-lawyers, developed by case law and statute. The UPL	Rule; Case Law	Supreme Court Committee/Commission; Attorney General	Arkansas Supreme Court	\$6,850

## 2009 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART I

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				Committee is not bound by just one definition.				
CA	Yes	Case Law	Yes, Sections 6125 et seq. of the Business and Professions Code and Rules 1-300 and 1-311 of the California Rules of Professional Conduct	Rule, Statute	Statute	State Bar Counsel, County Prosecutor	State Bar pays for UPL enforcement to the extent that the enforcement is conducted by State Bar disciplinary counsel in the State Bar's Office of the Chief Trial Counsel.	The State Bar does not have a separate budget for UPL enforcement.
CO	Yes	Case Law	Yes	Case Law	Rule	Supreme Court Committee/Commission, Attorney General	Budget of the Colorado Supreme Court office of Attorney Regulation Counsel; office receives its funds from the attorney registration fees paid by Colorado attorneys.	\$10,500
CT	Yes, Practice Book 2-44A available at <a href="http://www.jud.ct.gov">www.jud.ct.gov</a>	Rule; Statute(Conn. General Statutes 51-88); Case Law	No	-	Rule; Statute; Case Law; <sup>1</sup> Other:	County Prosecutor	Disciplinary Counsel is a court employee	Not budgeted

<sup>1</sup> Connecticut allows any lawyer to bring a UPL enforcement action. Our practice rules allow judges to prosecute these, and Disciplinary Counsel has a rule (2-34A (b)(8)) authorizing him to investigate and prosecute UPL.

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<b>DE</b>	No	Case Law	Yes; Rule H of the Rules of the Board on the Unauthorized Practice of Law	Rule; Statute	Rule	Office of Disciplinary Counsel, arm of Delaware Supreme Court	Delaware Supreme Court	Not available
<b>DC</b>	Yes www.dccourts.gov/dccourts/docs/rule49.pdf	Rule, Advisory Opinion	Yes www.dccourts.gov/dccourts/doc/rule49.pdf	Rule, Advisory Opinions	Rule	District of Columbia Court of Appeals Committee on Unauthorized Practice of Law	As stated in the answer to #8, the Court of Appeals has no budget for UPL enforcement. The members of the Committee on Unauthorized Practice serve as volunteers, and they contribute their time and pay expenses such as postage And copying costs.	The Court of Appeals does not have a budget for UPL enforcement.
<b>FL</b>	No	Other: test for practice of law found in case law	No	Other: test for unauthorized practice of law found in case law	Rule	State Bar Counsel; Other: State Attorney's Office (criminal prosecution)	Part of bar budget funded by bar dues. Respondent ordered to pay cost of prosecution. Criminal prosecutions by JAD funded by tax dollars.	\$1.6mil
<b>GA</b>								
<b>HI</b>	No	-	No	-	Statute	Attorney General	General Funds	N/A
<b>ID</b>	Yes	Rule, Case Law	Yes, IBCR 801 (i)	Rule, Advisory Opinion	Rule Statute	State Bar Committee, County Prosecutor	Idaho State Bar or County Prosecutor	Not specifically budgeted.

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<b>IL</b>	No	No <sup>2</sup>	No	N/A		State Bar Committee, Attorney General, County Prosecutor <sup>3</sup>	N/A	N/A
<b>IN</b>								
<b>IA</b>	Yes	Rule and Case Law	Yes	Rule and Case Law	Rule, Case Law	Supreme Court Committee/Commission, Attorney General	Iowa Supreme Court	\$30,059.73
<b>KS</b>								
<b>KY</b>	Yes, (See SCR 3.020)	Rule, (See SCR 3.020)	Yes, (See KRS 524.130)	Statute (See KRS 524.130)	Rule (See SCR 3.460 and Statute (See KRS 524.130)	Other; The Kentucky Supreme Court delegates authority to the Executive Director of the Kentucky Bar Association, whose investigative duties are	UPL enforcement is paid for by the annual bar dues of the members of the KBA.	A specific budget for UPL is not allocated. UPL costs are included in the KBA's general fund.

<sup>2</sup> Illinois has no specific statutory or regulatory definition of the "practice of law." In fact, the Illinois Supreme Court has consistently held that the term "practice of law" defies "mechanistic formulation." E.g. In re Discipio, 163 Ill.2nd 515, 645 N.E.2d 906, 206 Ill. Dec. 654 1995). Nevertheless, the Court has provided some guidelines on determining whether certain acts constitute the "practice of law" and as such, amount to a very broad definition of the "practice of law." The Court has held that: "it is the character of the acts themselves that determines the issue (citations omitted). The focus of the inquiry must be on whether the activity in question required legal knowledge and skill in order to apply legal principles and precedent" (citations omitted). Id.

<sup>3</sup> In addition to the above regulatory entities, private attorneys and law firms have standing to bring actions for the unauthorized practice of law. *Mallen v. MyInjuryClaim.com*, 329 Ill. App.3d 953, 769 N.E.,2d 74, 263 Ill. 872 (1st Dist. 2002)





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NH								
NJ	Yes	Rule, Case Law, Advisory Opinion	Yes	Statute, Case Law, Advisory Opinion	Statute, Case Law	State Supreme Court Committee/Commission, Attorney General, County Prosecutor, and attorneys may prosecute UPL violations, pursuant to NJ State Bar Assn. v. North NJ Mortgage Assn., 22 NJ 184 (1956)	Part of budget of law enforcement agencies	unknown
NM								
NY	No	N/A	Yes, Judiciary Law § 476-a	Statute	Statute	Attorney General	State of New York	Not specifically budgeted. Within Attorney General's responsibilities.
NC	Yes, NC Gen. Statute 84-2.1	Statute	Yes, NC Gen. Statute 84-4 and 5	Statute	Statute and Inherent Authority of the Courts	State Bar Committee, County Prosecutor, and the State Bar may seek an injunction; the District Attorney may seek criminal penalties	Each agency with enforcement authority, including the State Bar, pays for its enforcement activities.	N/A
ND	No	-	No	-	Rule; Statute	Supreme Court Committee/Commission; County Prosecutor	The cost of the Supreme Court's Disciplinary system is shared by the Court and lawyers. The cost of prosecuting the misdemeanor	It is not expressed as a separate item.

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							is born by the counties.	
<b>OH</b>	Yes, seminal case Land title Abstract & Trust Co. v. Dworken (1934) 129 Ohio St. 23; and other opinions	Case Law	Yes, Supreme Court Rules for the Government of the Bar, Rule VII, 2(A).	Rule	Rule	Other: State Disciplinary Counsel, and State and Local Bar Associations.	The Supreme Court of Ohio through attorney registration fees.	\$260,000
<b>OK</b>	Yes, R.J. Edwards v. Hert, 1972 OK 151, 20, 504 P. 2d 407	Advisory Opinion	No	N/A	Rule	State Bar Counsel	Bar Association	Subsumed generally within office budget
<b>OR</b>	No	Case Law	Yes, ORS 9.160	Statute	Statute	Oregon State Bar by statute. The bar has delegated that authority to the UPL Committee in its bylaws.	Oregon State Bar	\$5000
<b>PA</b>	No	-	Yes	Statute; Case Law	Statute	Attorney General; County Prosecutor	Whoever files an action	N/A
<b>RI</b>								
<b>SC</b>								
<b>SD</b>	No	N/A	No	N/A	Statute	State Bar Committee, Attorney General, County Prosecutor, any citizen	State Bar	-
<b>TN</b>	Yes	Statute, Case Law	Yes, Tenn. Code Ann. §23-3-103 (2008)	Statute, Case Law	Statute, Case Law	Attorney General, County Prosecutor	State	\$177,100

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<b>TX</b>	Yes, Texas Government Code § 81.101	Rule, Statute, Case Law	No	N/A	Rule, Statute, Case Law	Supreme Court Committee/Commission	State Bar through member dues	\$170,000
<b>UT</b>	Yes	Rule, Case Law	No	N/A	Rule, Statute, Case Law	State Bar counsel, state bar Committee, board of bar commissioners	Utah State Bar	0 (no set amount)
<b>VT</b>								
<b>VA</b>	Yes; Part 6 §I (B) Rules of the Virginia Supreme Court	Rule	No	N/A	Rule, Statute, Case Law, Advisory Opinion	State Bar Committee, Attorney General, County Prosecutor	Enforcement through VSB budget funded by dues paid by members.	-
<b>WA</b>	Yes; <a href="http://www.courts.wa.gov/court_rules/?fa=court_rules.display&amp;group=ga&amp;set=GR&amp;ruleid=gagr24">http://www.courts.wa.gov/court_rules/?fa=court_rules.display&amp;group=ga&amp;set=GR&amp;ruleid=gagr24</a>	Rule	No	-	Statute; <a href="http://apps.leg.wa.gov/RCW/default.aspx?cite=2.48.180">http://apps.leg.wa.gov/RCW/default.aspx?cite=2.48.180</a>	Supreme Court Committee/Commission; Attorney General; County Prosecutor; The Practice of Law Board was established by the Supreme Court, in part, to investigate and enforce UPL. However, the Board has limited enforcement authority and refers cases to the county prosecutor and the Attorney General's Office.	The Practice of Law Board administered by the WSBA investigates UPL complaints, attempts to enter into cease and desist agreements with violators, and refers violators to county prosecutors and other enforcement agencies. The POL Board's annual budget for 2009 is \$173,846.  The state and county enforcement are funded by the state and county.	The POL Board's annual budget for 2009 is \$173,846.  The state and county expenditures are from their general funds.

March 2009

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<b>WV</b>	Yes	Rule; Other: by order of the WV Supreme Court of Appeals	No	N/A	Rule; Statute; Other Statute for criminal	State Bar Committee	The West Virginia State Bar	\$5000
<b>WI</b>	No	-	No	N/A	Statute	County Prosecutor	State	N/A
<b>WY</b>	Yes; Rule 303; Wyoming Court Rules; Admission to the practice of Law	Rule	Yes; Rule 11.1; Wyoming Court Rules; Bar Association Organization & Governance	Rule	Rule	State Bar Committee	Wyoming State Bar	As needed

## 2009 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART II

STATE	This amount includes	What remedies sanctions are available against someone engaged in the UPL?	How active is jurisdiction in enforcing the UPL regulations?  Please explain:	Does your jurisdiction permit any nonlawyer practice? <sup>i</sup>	If nonlawyer practice is permitted, is it regulated/licensed?  By?	Nonlawyers may engaged in the following:
AL	Salaries and benefits, travel/education/training	Civil injunction, civil contempt, civil fine, criminal fine, prison	Active	Yes, Legal Technicians, Legal Assistants/Paralegals under the supervision of an attorney	Yes, regulated by State Bar	Attend administrative Proceedings, Attend Real Estate Closings, Participate In State Administrative Proceedings, Participate In Alternative Dispute Resolution proceedings.
AK	-	Criminal fine, prison, restitution	Non-existent: The bar Association has been working with the Alaska Supreme Court for many years to arrive at a definition for injunctive under AS 08.07.210, but no definition has been adopted.	No	N/A	-
AZ	Salaries and benefits, space, equipment and supplies, travel/education, training.	Civil injunction, civil contempt, civil fine,	Active	Yes, Legal Assistants/Paralegals under the supervision of an attorney, document preparers.	Yes; State Bar and Supreme Court	Prepare pleadings/wills/other legal documents, Attend administrative proceedings, pre-trial activities, negotiate legal matters, appear in court, attend real estate closings, participate in state administrative proceedings, participate in alternative dispute resolution proceedings.

<sup>i</sup> All United States jurisdictions allow for limited practice by law students with lawyer supervision. See, *ABA Model Rule Relative to Legal Assistance By Law Students*.

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### CHART II

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AR	Equipment and supplies; Travel/Education/ Training; Other- court reporters/court and witness fees	Civil injunction, civil contempt, civil fine, criminal fine	Active	No	-	Prepare pleadings/wills/other legal documents, attend administrative proceedings, pre-trial activities, negotiate legal matters, appear in court, <sup>ii</sup> attend real estate closings, participate in state administrative proceedings, participate in alternative dispute resolution proceedings. Other: a person can represent himself <i>pro se</i> but cannot do the things listed above on behalf of another.
CA	N/A	Civil injunction, civil contempt, civil fine, criminal fine, prison, restitution, <sup>iii</sup> Other	<sup>iv</sup> Active	Yes, Legal Technicians, Legal Assistants/Paralegals under the supervision of an attorney, <sup>v</sup> Other	No	Attend real estate closings; Other: Nonlawyers may not independently engaged in most of the activities listed above. There are, however, some exceptions. Under Business and Professions Code sections 10130 et seq. permit real estate brokers and real estate salespeople to attend real estate closings. <sup>vi</sup>

<sup>ii</sup> Real estate brokers may fill in the blanks in connection with simple real estate transactions in standard warranty deeds, quitclaim deeds, release deeds, bills of sale, lease agreements, and mortgages with power of sale under the following restrictions: (1) That the person for whom the broker is acting has declined to employ a lawyer to prepare the necessary instruments and has authorized the broker to do so; (2) that the forms are approved by a lawyer either before or after the blanks are filled in but prior to delivery to the person for whom the broker is acting; (3) that the forms shall not be used for other than simple real estate transactions which arise in the usual course of the broker's business (4) that the forms shall be used only in connection with real estate transactions actually handled by such brokers as a broker; (5) that the broker shall make no charge for filling in the blanks; and (6) that the broker shall not give advice or opinions as to the legal rights of the parties, as to the legal effects of instruments to accomplish specific purposes of as to the validity of title to real estate.

<sup>iii</sup> Other remedies include (1) attorney discipline if the person is a member of the State Bar, including the initiation of a new disciplinary proceeding, the initiation of a probation violation proceeding and the use of evidence of the unauthorized practice of law in any future reinstatement proceeding; (2) the assumption of jurisdiction over the person's practice by the courts of the state, and (3) an order of the disgorgement of ill-gotten gains. Under sections 6125 et seq. of the Business and Professions Code, criminal penalties (imprisonment, a criminal fine or both) and a finding of civil contempt are available. Section 6126.3 of the Business and Professions Code permits the courts of the state to assume jurisdiction over the practice of a nonlawyer engaged in the unauthorized practice of law. Sections 6180 et seq. of the Business and Professions Code permit the courts of the state to assume jurisdiction over the practice of an inactive, a disbarred or a suspended member engaged in the unauthorized practice of law.<sup>iii</sup> California courts have found that engaging in the unauthorized practice of law constitutes unfair competition in violation of section 17200 of the Business and Professions Code. *People ex rel. Bill Lockyer v Fremont Life Ins. Co.* (2002, 2nd Dist) 104 Cal.App.4th 508, 128 Cal.Rptr.2d 463.<sup>iii</sup> The remedies for violations of section 17200 include injunctive relief, both prohibitory and mandatory, and monetary relief in the form of restitution and disgorgement of ill-gotten gains.<sup>iii</sup>

<sup>iv</sup> In 2006, the Office of the Chief Trial Counsel created a UPL team to handle UPL cases in Southern California. The team doubled in size in 2007 from its original size of two attorneys and three investigators to four attorneys and six investigators. Both the creation of the team in 2006 and the expansion of the team in 2007 were accomplished without any additional budgetary funds or the creation of any new positions.

<sup>v</sup> For the most part, the only nonlawyer practice permitted in our jurisdiction is the work of legal assistants and paralegals under the supervision of an attorney. There are, however, some limited exceptions permitted by statute. Section 6400 et seq. of the Business and Professions Code permits a nonlawyer to render assistance or advice in the prosecution or defense of an unlawful detainer claim or action and to provide self-help service to clients.<sup>v</sup>

Section 5501 of the California Labor Code allows nonlawyer representation before the Workers Compensation Appeals Board (WCAB) if the representation is authorized in writing and the representative has notified the WCAB in writing that he or she is not an attorney licensed by the State Bar.<sup>v</sup> And section 5700 of the Labor Code permits a nonlawyer to represent a party in hearings on workers compensation applications and to present testimony pertinent under the pleadings on behalf of the party at those hearings.<sup>v</sup> (See also California Bar Committee on Professional Responsibility formal opinion 1988-103, which opines that a law firm may delegate

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<b>CO</b>	N/A	Civil injunction, civil contempt, civil fine, criminal fine, prison, restitution	Active	No	N/A	This depends for the following: Attend administrative proceedings, attend real estate closings, participate in state administrative proceedings, participate in alternative dispute resolution proceedings
<b>CT</b>	-	Civil injunction, civil contempt, civil fine, criminal fine, prison	Active	No	-	Attend administrative proceedings( only if allowed by agency); Attend real estate closings (doc signing only); Participate in state administrative proceedings (if permitted by agency regulations); Participate in alternative dispute resolution proceedings if allowed by forum rules)
<b>DE</b>	-	Civil Contempt	Active: we send a cease and desist letter which usually work, Rarely do we file petition.	No	-	Attend administrative proceedings, participate in state administrative proceedings
<b>DC</b>	N/A	Civil Injunction; Civil Contempt; Criminal Fine; Prison; Restitution	Active	Legal Assistants/ Paralegals under the supervision of an attorney; Other: Exceptions for nonlawyers to the general rule that only lawyers can engage in the practice of law are set forth in Rule 49(c). For example: U.S. Government employee or practitioner	Yes by Federal and D.C. agencies to extent they permit nonlawyers to practice before them and supervision by the D.C. Bar members. Other Regulatory Entity/Board.	Prepare pleadings/wills/other legal documents, attend administrative proceedings, pre-trial activities; Give legal advice, negotiate legal matters, appear in court, attend real estate closings, participate in state administrative proceedings, participate in alternative dispute resolution proceedings.
<b>FL</b>	Salaries and benefits, space, equipment and supplies,	Civil injunction, civil contempt, civil fine, criminal fine, prison, restitution	Active	Legal Technicians, Legal Assistants/Paralegals under the supervision of an attorney, Document	Yes, regulated by State Bar	participate in state administrative proceedings, (If allowed by rule and the hearing officer);  Participate in alternative dispute resolution

authority to a paralegal employee to make appearances at Workers' Compensation Appeals Board hearings and to file petitions, motions or other material allow a paralegal to represent clients at workers' compensation hearings where the client consents to the nonlawyer representation.)<sup>v</sup>

Under section 1957 of the California Unemployment Insurance Code, a nonlawyer may represent any individual claiming benefits in any proceedings before the California Unemployment Insurance Appeals Board.<sup>v</sup> Some federal agencies with offices in California also permit nonlawyer representation. Those agencies are not listed here.

<sup>vi</sup> Bus. & Prof. Code, §§ 10130 et seq. are included as Attachment 15.

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	travel/education, training, and all aspects of the program			preparers. Some professions such as real estate licenses may provide limited legal services in certain areas.		proceedings (If allowed by rule)
GA						
HI	-	Criminal Fine, Prison	Active	No	-	-
ID	N/A	Civil injunction, civil contempt, criminal fine, prison, restitution	Active	No	--	N/A
IL	N/A	Civil injunction, civil contempt, civil fine, restitution	Active	Other: Pursuant to Illinois Supreme Court Rule 756(h) inactive or retired lawyers (who technically are no longer authorized to practice law) may under certain circumstances provide pro bono services under the auspices of a sponsoring entity.	No	N/A
IN						
IA	Salaries and benefits, space, equipment and supplies, travel/education, training	Civil injunction, civil contempt, civil fine, criminal fine, prison, restitution	Active	Legal Technicians, Legal Assistants/Paralegals under the supervision of an attorney, Document preparers, Domestic Violence Counselors, Real Estate (see Rules 37.4 and 37.5)	Yes	Rule, Case Law
KS						
KY	Information not available	Civil injunction, Civil Contempt, Civil Fine, and Criminal Fine.	Active	Yes.	No, non-lawyer practice is not regulated/licensed in Kentucky.	No

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STATE	This amount includes	What remedies sanctions are available against someone engaged in the UPL?	How active is jurisdiction in enforcing the UPL regulations?  Please explain:	Does your jurisdiction permit any nonlawyer practice? <sup>i</sup>	If nonlawyer practice is permitted, is it regulated/licensed?  By?	Nonlawyers may engaged in the following:
LA	N/A	Criminal Fine, Prison, Discipline by Supreme Court	Active. In the context of lawyer discipline, prosecution by ODC is very aggressive; as regards criminal prosecution, not very active.	No	N/A	N/A
ME	-	Civil injunction, criminal fine, prison, restitution	Active- A member of the Attorney General's Office regularly meets with representatives from the Board of Overseers and Board of Bar Examiners to review complaints and referrals and discuss appropriate action and sanctions.	Yes, <a href="http://www.mainelegislature.org/legis/statutes/4/title4sec807.html">http://www.mainelegislature.org/legis/statutes/4/title4sec807.html</a>	No	Prepare pleadings/wills/other legal documents, attend administrative proceedings, appear in court, participate in state administrative proceedings, other: practice permitted within the exceptions enumerated by 4 MRSA 807.
MD	Salaries and benefits, space, travel/education/training	Civil injunction, civil contempt	Active	No	Yes	Case Law
MA						
MI						
MN						
MS	Salaries and benefits, space, equipment and supplies, travel/education/training	Civil injunction, criminal fine, prison	Active, the UPL Committee actively works a docket of 25-30 UPL cases a year. Deputy General Counsel serves as OGC liaison to the UPL Committee.	Legal assistants/Paralegals under the supervision of an attorney.	Yes, Miss. Code Am § 73-3-55 (1972 as amended)	Statute
MO	N/A	Civil Injunction criminal fine, restitution	Not Active. We often issue letters of cease and desist. We usually refer more serious matters out to the local prosecutor.	Legal assistants/Paralegals under the supervision of an attorney; Other: some exceptions	No	Participate in state administrative proceedings, and participate in alternative dispute resolution proceedings.

## 2009 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART II

STATE	This amount includes	What remedies sanctions are available against someone engaged in the UPL?	How active is jurisdiction in enforcing the UPL regulations?  Please explain:	Does your jurisdiction permit any nonlawyer practice? <sup>i</sup>	If nonlawyer practice is permitted, is it regulated/licensed?  By?	Nonlawyers may engaged in the following:
				for employment security proceedings		
MT	Travel/Education/ Training. Other; State Bar of Montana supports Commission with staff person, office and equipment.	Civil Injunction and Civil Contempt	Active, to the extent allowed with limited resources.	No	N/A	Prepare pleadings/wills/other legal documents, attend administrative proceedings, give legal advice, participate in state administrative proceedings and participate in alternative dispute resolution proceedings. Other; These are areas we see nonlawyers trying to do work.
NE	Salaries and benefits, space, equipment and supplies, travel/education/training, professional fees	Civil Injunction (rule), civil contempt (rule), criminal fine (statute)	Court rules became effective 1/1/08. Enforcement is becoming more active by commission on UPL. Enforcement by County Prosecutor is not active.	No	--	Attend administrative proceedings, attend real estate closings, participate in state administrative proceedings, only as permitted (not prohibited) by Court Rules
NV						
NH						
NJ	--	Criminal Fine, prison, restitution	Active, but dependant on the willingness of county prosecutors to bring charges	Yes, Legal Assistants/Paralegals under the supervision of an attorney	Yes, regulated by the Supreme Court (not licensed)	Participate in alternative dispute resolution proceedings as neutrals.
NM						
NY	N/A	Civil Injunction	Not Active. The Attorney General brings enforcement actions where there is serious abuse, but enforcement is otherwise very limited.	Yes. 1. Officers of SPCAs under a special statute..	Supreme Court	Other: This is much too complicated for the checking of boxes.
NC	Salaries and benefits, Space, Equipment and Supplies, Travel/Education/ Training	Civil Injunction, Criminal Fine, Prison	Active. The State Bar investigates about 120 complaints/year and seeks injunctions or refers to the DA for criminal prosecution about 4-5 cases/year on	Legal Assistants/Paralegals under the supervision of an attorney, and Independent practice by nonlawyers is not	State Bar	Attend real estate closings, and nonlawyers may witness the execution of documents in a real estate transaction without the supervision of an attorney as long as no advice is provided. Nonlawyers may also receive and disburse the funds for a real estate transaction.

## 2009 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART II

STATE	This amount includes	What remedies sanctions are available against someone engaged in the UPL?	How active is jurisdiction in enforcing the UPL regulations?  Please explain:	Does your jurisdiction permit any nonlawyer practice? <sup>i</sup>	If nonlawyer practice is permitted, is it regulated/licensed?  By?	Nonlawyers may engaged in the following:
			average.	permitted except as noted below: Paralegals may be engaged by attorneys on an independent contractor, freelance basis, however.		
ND	-	Criminal Fine; Prison; Restitution	Non-existent	No	-	Participate in alternative dispute resolution proceedings.
OH	Salaries and benefits, equipment and supplies, travel/education/training	Civil injunction, civil contempt, civil fine, criminal fine, prison.	Active	No	--	Attend Administrative proceedings, appear in court, participate in state administrative proceedings, other: Limited practice permitted by case law in some state administrative proceedings, e.g., workers' compensation, unemployment hearings boards of revision (property tax). Corporate officer or salaried may appear on behalf of corporation in small claims court.
OK	N/A	Civil Injunction, Civil Contempt	Not Active	No	N/A	Attend administrative proceedings, attend administrative proceedings, pre-trial activities, give legal advice, negotiate legal matters, attend real estate closings, participate in state administrative proceedings, and participate in alternative dispute resolution proceedings.
OR	-	Civil injunction, civil contempt, civil fine, criminal fine, prison, restitution	<sup>vii</sup> Active	Yes, document preparers	No	Prepare pleadings/wills/other legal documents, attend administrative proceedings, appear in court, participate in state administrative proceedings.
PA	-	Civil injunction, civil contempt, criminal fine, prison, restitution.	Active	No	-	Attend administrative proceedings, participate in state administrative proceedings
RI						
SC						

<sup>vii</sup> In 2008, the UPL Committee received 45 new matters for investigation. They resolved 74 cases after investigation. Dispositions included: dismissals, admonition letters, notice letters, cease & desist agreements, and referrals for prosecution. In 2008 we resolved two matters by cease and desist agreements and four new cases were approved for prosecution. We normally have about five open UPL prosecutions at any given time.

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STATE	This amount includes	What remedies sanctions are available against someone engaged in the UPL?	How active is jurisdiction in enforcing the UPL regulations?  Please explain:	Does your jurisdiction permit any nonlawyer practice? <sup>i</sup>	If nonlawyer practice is permitted, is it regulated/licensed?  By?	Nonlawyers may engaged in the following:
SD	-	Civil Injunction, Civil Contempt, Criminal Fine	Active. Step One: letter of admonition; step two, if admonition is ignored, and civil injunction, criminal prosecution is available only in limited circumstances and is in discretion of local prosecuting attorney.	No. Appearances allowed in small claims court, before some administrative agencies.	No	Attend administrative proceedings, Appear in small claims court only, attend real estate closings as title agents, participate in state administrative proceedings
TN	Salaries and benefits, equipment and supplies, travel/education/training	Civil injunction, criminal fine, prison, restitution	Active, the Attorney General and Reporter may bring an action in the name of the state to obtain a temporary restraining order, temporary injunction, or permanent injunction, civil penalties, restitution and attorneys fees for any aviolation of the UPL statute. Currently, the Attorney General employs one attorney to handle most UPL matters.	No	--	Other: Only attorneys can engage in activities that require the "professional judgment of a lawyer." In re Burson, 909 S.W. 2d 768,777 (Tenn. 1995)
TX	Space, equipment and supplies, Travel/Education/ Training.	Civil Injunction, Civil Contempt, Prison	Active	No	N/A	Attend administrative proceedings.
UT	Salaries and benefits, space, equipment and supplies, travel/education/training	Civil injunction, civil contempt, civil fine, restitution	Active, the UPL Committee meets once a month to review ongoing investigations and to assign new complaints.	Yes, Legal assistants/ Paralegals under the supervision of an attorney, assisting one's minor child or ward in a juvenile proceeding, representing without compensation a person in small claims court, representing a legal entity	No	Attend administrative proceedings, attend real estate closings, participate in state administrative proceedings, participate in alternative dispute resolution proceedings.

## 2009 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART II

STATE	This amount includes	What remedies sanctions are available against someone engaged in the UPL?	How active is jurisdiction in enforcing the UPL regulations?  Please explain:	Does your jurisdiction permit any nonlawyer practice? <sup>i</sup>	If nonlawyer practice is permitted, is it regulated/licensed?  By?	Nonlawyers may engaged in the following:
				as an employee representative in small claims court, representing a person without compensation or a legal entity in an arbitration proceeding, representing a third party in an arbitration proceeding, acting as a representative before administrative tribunals or agencies, serving in a neutral capacity as a mediator, arbitrator, or conciliator, real estate agent, abstractor or title insurance agent, financial institutions, security brokers or dealers; insurance companies and agents; health care providers providing clerical assistance to patients; CPAs, IRS agents, public accountants or bookkeepers and tax preparers may prepare tax returns.		
VT						
VA	-	Civil injunction; Criminal fine.	Active	No	-	Attend real estate closings, participate in state administrative proceedings and participate in alternative dispute resolution proceedings.
WA	Salaries and benefits, space, equipment and supplies,	Civil injunction, criminal fine, prison, restitution, Other: There is no specific civil injunction available for UPL.	Non- Active; The Practice of Law Board investigates and processes 30-50 cases per year on	Yes. Other; Limited Practice Officers in real and personal property	Yes. Supreme Court and other regulatory Entity/Board.	Attend administrative proceedings, negotiate legal matters, attend real estate closings. Other; Non lawyers may provide representation at administrative hearings if permitted by the agency.

## 2009 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART II

STATE	This amount includes	What remedies sanctions are available against someone engaged in the UPL?	How active is jurisdiction in enforcing the UPL regulations?  Please explain:	Does your jurisdiction permit any nonlawyer practice? <sup>i</sup>	If nonlawyer practice is permitted, is it regulated/licensed?  By?	Nonlawyers may engaged in the following:
	travel/education/training		average. A percentage of these cases are referred to prosecutors. The Board is aware of 1 case that was actually prosecuted.	transactions.		Any one in Washington can provide general information about what the law is and may sell legal forms. Limited Practice Officers can prepare specific forms approved by the Limited Practice Board. These forms are connected with real estate closings. If the Court approves the Legal Technician proposal, these technicians will be permitted to give legal advice regarding forms in specific areas of the law approved in advance. The technicians will be tested, licensed and held to the standard of a lawyer. If you would like more information about the Legal Technician proposal, please contact me.
WV	Hiring outside counsel	Civil injunction; Criminal fine	Active	Document preparers; Other: Bank employees may complete certain pre-prepared forms- when providing service to low income residents.	Yes	Attend administrative proceedings; Attend real estate closings
WI	N/A	Other: misdemeanor jail	Not Active	No	-	Attend administrative proceedings, attend real estate closings, participate in state administrative proceedings and participate in alternative dispute resolution proceedings.
WY	Space; Equipment and supplies; Travel/Education/Training; Other Teleconferences; mailings etc	Civil injunction; Other; Criminal contempt	Active	Supervision of an attorney	N/A	Attend real estate closings, participate in alternative dispute resolution proceedings

## 2009 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART III

STATE	May disbarred or suspended lawyers engage in a law related activity?	If a disbarred or suspended lawyer can engage in law-related activity, what are the restrictions?	Is the source of your jurisdictions' position on disbarred/suspended lawyer practice?	Is your jurisdiction contemplating any change in its UPL Regulations, enforcement activity, or authority?
AL	No	--	Rule	No
AK	Yes, but limited by Bar Rule 15(6)	See question 15	Rule	Yes, a proposal to require written disclosure by a nonlawyer is pending before the Alaska Supreme Court.
AZ	Yes	Can act as a paralegal under the supervision of a lawyer in good standing. Can also work as an assistant under the same restrictions.	Rule	No
AR	No	-	Rule; Statute	Yes, The Arkansas Supreme Court has requested that the Arkansas Bar Association review current UPL regulations and make recommendations for amendments and/or changes
CA	Yes	Under rule 1-311 of the Rules of Professional Conduct, disbarred or suspended lawyers may perform research, drafting or clerical activities. This includes, but is not necessarily limited to, legal work of a preparatory nature, such as legal research, the assemblage of data and other necessary information, drafting of pleadings, briefs, and other similar documents; direct communication with the client or third parties regarding matters such as scheduling, billing, updates, confirmation of receipt or sending of correspondence and messages; or accompanying an active member in attending a deposition or other discovery matter for the limited purpose of providing clerical assistance	Rule	Yes. Due to financial reasons, our jurisdiction is contemplating limiting the UPL enforcement activity of the State Bar.

## 2009 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART III

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		to the active member who will appear as the representative of the client.		
<b>CO</b>	Yes		Rule	No
<b>CT</b>	Yes, paralegal	Paralegals/secretary	Rule, Case Law	Statutory Change to Felony (5 years)
<b>DE</b>	Yes	They may act as a paralegal under supervision but are more restricted in what they can do than a non-lawyer paralegal	Case Law	No
<b>DC</b>	The D.C. disciplinary system, not the Committee on Unauthorized practice, enforces restrictions on activity by disbarred and suspended lawyers.	The D.C. disciplinary system, not the Committee on Unauthorized practice, enforces restrictions on activity by disbarred and suspended lawyers.	Other; The D.C. disciplinary system, not the Committee on Unauthorized practice, enforces restrictions on activity by disbarred and suspended lawyers.	No
<b>FL</b>	Yes	Can work as a paralegal or law clerk under supervision of a member of the Florida Bar; no direct client contact; cannot handle trust funds or property; employing attorney must provide quarterly reports of employment to the Florida Bar.	Rule, Case Law	No
<b>GA</b>				
<b>HI</b>	Yes	Could work as a paralegal	-	Yes. Ongoing preparation on defining "practice of law" by court rule.
<b>ID</b>	No (Post 7/1/08) Yes (Pre 7/1/08)	Current IBCR 516 and pre 7/1/08 see IBCR 517 and 506 (j)	Rule	No
<b>IL</b>	No	N/A	Unknown	Illinois has a large body of UPL Case law, so cases are not being attached for purposes of this response
<b>IN</b>				

## 2009 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART III

STATE	May disbarred or suspended lawyers engage in a law related activity?	If a disbarred or suspended lawyer can engage in law-related activity, what are the restrictions?	Is the source of your jurisdictions' position on disbarred/suspended lawyer practice?	Is your jurisdiction contemplating any change in its UPL Regulations, enforcement activity, or authority?
<b>IA</b>	No		Rule, Case Law, Advisory Opinion	No
<b>KS</b>				
<b>KY</b>	Yes. A disbarred or suspended attorney may be employed in a clerical nature in a law firm so long as his/her employment does not require the performance of any service stated in SCR 3.020	Disbarred or suspended attorneys are non-attorneys and become subject to the laws pertaining to the unauthorized practice of law. Such attorneys shall not be employed as a paralegal or in any other manner in which the disbarred or suspended attorney may be required to perform services stated in SCR 3.020 (See KBA E-255; KBA E-256; and KBA E-336)	Advisory Opinion (See KBA E-255; KBA E-256; and KBA E-336)	No
<b>LA</b>	Yes. Disbarred lawyers are not permitted employment in a law office. Suspended lawyers are permitted work as law clerk, paralegals, etc if their employment is registered with OCD see Rule 5.5	Suspended lawyers only make work for a licensed attorney if employment is registered and under the restrictions of Rule 5.5	Rule	No
<b>ME</b>	Yes	He must not hold himself out as lawyer and his conduct must fall under the enumerated exceptions under 4 MRSA 807	Statute	No
<b>MD</b>	No		Rule, Statute, Case Law	No
<b>MA</b>				
<b>MI</b>				
<b>MN</b>				

## 2009 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART III

STATE	May disbarred or suspended lawyers engage in a law related activity?	If a disbarred or suspended lawyer can engage in law-related activity, what are the restrictions?	Is the source of your jurisdictions' position on disbarred/suspended lawyer practice?	Is your jurisdiction contemplating any change in its UPL Regulations, enforcement activity, or authority?
<b>MS</b>	Yes	May work as a paralegal under attorney supervision only.	Advisory Opinion	No
<b>MO</b>	Yes	None except for actually practicing law without a license	N/A	No
<b>MT</b>	Yes	Paralegal/legal assistant only	Other; allowed practice from disciplinary authority	Yes. Revising Commission rules to streamline and also recognize limited funding. Petition with rule change filed with MT Supreme Court and currently with 60 day comment period.
<b>NE</b>	No	--	Rule, Statute, Case Law, Advisory Opinion, Other: disbarred/suspended lawyers are "non-lawyers" but still subject to counsel for discipline.	No
<b>NV</b>				
<b>NH</b>				
<b>NJ</b>	No	--	Rule, Case Law	No
<b>NM</b>				
<b>NY</b>	Yes	A suspended attorney can engage in any act permitted by the order of suspension	Statute	Yes, the Committee on the Unauthorized Practice of Law of the New York State Bar Association is about to hold a series of forums, which may result in proposed changes.
<b>NC</b>	Yes	May not work for same firm as before the disbarment or suspension. Otherwise, are considered the same as any other nonlawyer.	Rule	No
<b>ND</b>	No	-	Rule; Statute	No
<b>OH</b>	Yes	A disqualified attorney (disbarred/suspended) may not have any direct client contact, handle client trust funds or property, work with a former	Rule	Yes. Possible expansion of prosecution through state Attorney General's office.

## 2009 SURVEY OF UNLICENSED PRACTICE OF LAW COMMITTEES CHART III

STATE	May disbarred or suspended lawyers engage in a law related activity?	If a disbarred or suspended lawyer can engage in law-related activity, what are the restrictions?	Is the source of your jurisdictions' position on disbarred/suspended lawyer practice?	Is your jurisdiction contemplating any change in its UPL Regulations, enforcement activity, or authority?
		firm, and new firm must register the disqualified attorney with the office of disciplinary counsel. Gov. Bar R. V, Sec 8(G) (3).		
<b>OK</b>	Yes	As a clerk or paralegal.	Case Law, Advisory Opinion	Perhaps, we contemplate greater enforcement of UPL but it is not a priority given budgetary and personnel constraints.
<b>OR</b>	Yes	They may not engage in the practice of law. Generally this means that they must work under the supervision of a licensed attorney.	Rule, Statute, Case Law	No
<b>PA</b>	No	-	Rule	No
<b>RI</b>				
<b>SC</b>				
<b>SD</b>	No		Statute, Case Law	No
<b>TN</b>	No	--	Rule	No
<b>TX</b>	Yes	Must be supervised by licensed member of state Bar	Statute, Case Law	No
<b>UT</b>	Yes	They cannot practice law	Rule, Statute, Case Law	No
<b>VT</b>				
<b>VA</b>	Yes	As provided under VA RPC 5.5	Rule	<sup>1</sup> Yes

<sup>i</sup> An opinion has been requested from our Attorney General's office regarding whether the Virginia State Bar's Standing Committee on the Unauthorized Practice of Law, comprised of Virginia licensed lawyers, lay members and lawyer staff (Bar Ethics Counsel and Assistant Ethics Counsel) can direct and/or participate in "undercover"/"sting" type operations to investigate complaints of unauthorized practice of law when this is the only method by which necessary evidence can be obtained. There has also been a proposal raised by the UPL Committee to explore the possibility of asking the General Assembly to consider making unauthorized practice of law a felony. It currently is a Class 1 misdemeanor.

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WA	No	-	Rule	Yes (explain): There is a rule pending before the Washington Supreme Court that would permit the licensing of Legal Technicians to provide limited legal services.
WV	No	N/A	Rule	No
WI	No	-	Rule	Yes: The SBW has a petition pending before the state supreme court to create a rule defining the practice of law and establishing an office in our lawyer regulatory agency to seek injunctions against unlicensed persons engaged in the practice of law.
WY	No	-	Rule	No